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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/807,882      | 03/24/2004  | Paul Gait            | N9989               | 5601             |

7590 09/16/2005

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| EXAMINER |
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CHAMBERS, MICHAEL S

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3711

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                                      |                                   |  |
|------------------------------|--------------------------------------|-----------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/807,882 | <b>Applicant(s)</b><br>GAIT, PAUL |  |
|                              | <b>Examiner</b><br>Mike Chambers     | <b>Art Unit</b><br>3711           |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1- 8, 13, 17, 22, 23 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Morrow et al (20040002398). Morrow discloses a plastic casing surrounding a textured metal frame (fig 4, )

As to claim 2 : Morrow discloses aluminum (2:paragraph 22).

As to claim 3 : Morrow discloses titanium (2:paragraph 22).

As to claim 4 : Morrow discloses wire (2:paragraph 22).

As to claim 5 : Morrow discloses a plastic casing (fig 4).

As to claims 6 and 7 : Morrow discloses tubing (2:paragraph 22).

As to claim 8 : Morrow discloses a plastic and metal frame (fig 1,4). In as much structure set forth in the claim language, the apparatus has an area of increased stress.

As to claim 13: See claim 1 rejection. Morrow discloses a first and second metal section (fig 2, item 28). In as much structure set forth by the applicant in the claims, the device discloses an angle between the sections.

As to claim 17: Morrow discloses at least one angle (fig 2).

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As to claim 22: See claim 1 rejection.

As to claim 23: Morrow discloses reinforcements in the scoop, base and throat areas (fig 2).

As to claim 27: The plurality of Morrow reinforcements are attached to the shell (fig 2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrow as applied to claim 1 above and further in view of Popplewell et al (4119313). The shape of the reinforcement is a matter of design choice. Popplewell discloses a corrugated reinforcement (fig 3-7). It would have been obvious to one of ordinary skill in the art to have selected an appropriate shape for the reinforcement material similar to the Popplewell reinforcement in order the reinforcement is securely attached and to the apparatus during its useful life.

As to claim 10 : Popplewell discloses an offset portion (fig 6 ).

As to claim 11 : Popplewell discloses an external surface and at least one protrusion (fig 18).

As to claim 12 : The shape of the frame is a matter of design choice. The specification provides no unexpected results in using the various shapes claimed. It

would have been obvious to one of ordinary skill in the art to have selected an appropriate frame shape based on cost and design considerations.

Claims 14,15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrow in claim 13 above. The angle between the first and second sections is a matter of design choice. The specification provides no unexpected results in using the various angles claimed. It would have been obvious to one of ordinary skill in the art to have selected any one of several equivalent angles between the first and second sections based on cost and design considerations.

Claims 18, 19, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrow as applied to claim 13 above. The design of the sections is a matter of design choice. The specification provides no unexpected results in using the various shaped claimed. It would have been obvious to one of ordinary skill in the art to have selected any one of several equivalent shapes or layouts based on cost and design considerations.

Claims 24,25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrow in claim 22 above. The shape of the reinforcement is a matter of design choice. The specification provides no unexpected results in using the various shapes claimed. It would have been obvious to one of ordinary skill in the art to have selected an appropriate frame reinforcement shape based on cost and design considerations.

Also,

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams (4690447) in view of Plsitidip. Adams discloses the elements of claim 1 however it does not disclose a plastic casing. Plsitidip discloses a plastic casing (1<sup>st</sup> paragraph). It would have been obvious to one of ordinary skill in the art to have utilized the coating of Plsitidip with the apparatus of Adams in order to provide a more secure grip area and prevent scratching of the surface.

As to claims 2-4 : The material used is a matter of design choice. The specification provides no unexpected results in using aluminum, titanium or wire. It would have been obvious to one of ordinary skill in the art to have selected an appropriate material for the frame based on cost and design considerations.

As to claim 5 : Plsitidip discloses a plastic casing (1<sup>st</sup> paragraph).

As to claims 6 and 7 : Adams discloses hollow tubing (fig 5).

As to claim 8: Adams discloses a metal frame (fig 1,4). In as much structure set forth in the claim language, the apparatus has an area of increased stress. Plsitidip discloses a plastic casing (1<sup>st</sup> paragraph). It would have been obvious to one of ordinary skill in the art to have utilized the coating of Plsitidip with the apparatus of Adams in order to provide a more secure grip area and prevent scratching of the surface.

As to claim 9,10,11, and 12 :The shape of the frame is a matter of design choice. The specification provides no unexpected results in using the various shapes claimed. It would have been obvious to one of ordinary skill in the art to have selected an appropriate frame shape based on cost and design considerations.

As to claim 13: See claim 1 rejection. Adams discloses a first and second metal section (fig 6). In as much structure set forth by the applicant in the claims, the device discloses an angle between the sections.

As to claims 14-17 : Adams discloses an acute, obtuse and right angles (fig 3). The angle between the first and second sections is a matter of design choice. The specification provides no unexpected results in using the various angles claimed. It would have been obvious to one of ordinary skill in the art to have selected any one of several equivalent angles between the first and second sections based on cost and design considerations.

As to claim 18 : Adams discloses an angle (fig 3).

As to claims 19, 20, and 21: The design of the sections is a matter of design choice. The specification provides no unexpected results in using the various shaped claimed. It would have been obvious to one of ordinary skill in the art to have selected any one of several equivalent shapes based on cost and design considerations.

As to claim 22: See claim 1 and 13 rejections.

### ***Conclusion***

Note: the examiner fails to see any patentable material in this application. The current claims are written broadly and merely show the addition of reinforcing material to a sport implement. It would be useful if the response to this office action included a section on what the applicant believes the instant invention is and its novelty. The addition of reinforcing handles is well known in the art, see 1933 patent to Kleinman. When the claims are re-submitted, they should include more structure in order to more

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clearly define the invention. Unless the specification notes some unexpected or surprising results from the claim structure, the orientation of the reinforcements or their design will be considered obvious variations on the well known idea of placing reinforcements in an object to increase its durability and useful life.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

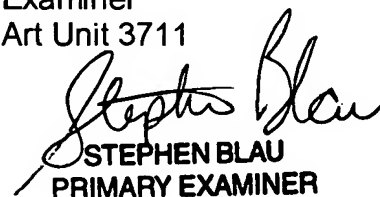
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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September 10, 2005

Michael Chambers  
Examiner  
Art Unit 3711

  
STEPHEN BLAU  
PRIMARY EXAMINER